

ENTERED

July 31, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISIONDIANDRA M. PITTMAN and
NICK COOPER,

Plaintiffs,

v.

LITHIA MOTORS, INC. and
SOUTHWEST INFINITI,

Defendants.

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Civil Action No. 4:22-CV-01049

ORDER

Pending before the Court are Diandra M. Pittman and Nick Cooper's (the "Plaintiffs") Motion for Summary Judgment, (Dkt. No. 31), Defendant Lithia Motors, Inc. and Houston-I, Inc. D/B/A Southwest Infiniti's (the "Defendants") Motion for Summary Judgment, (Dkt. No. 32), and Defendant Lithia Motors, Inc.'s Motion for Summary Judgment, (Dkt. No. 34).

Each of the pending summary judgment motions were filed between February 16–21, 2023, (*see* Dkt. Nos. 31, 32, 34), after expiration of the January 20, 2023 discovery deadline set by Judge Lynn N. Hughes. (*See* Dkt. No. 23). However, after this case was reassigned to the undersigned, the Court re-opened the discovery period to December 15, 2023, and extended the dispositive motion deadline to January 15, 2024.¹ (*See* Dkt. No. 45). The present case is one where "further discovery could potentially alter the

¹ This scheduling order, entered after the initial conference on April 18, 2023, reflected the Defendants' advisement that additional discovery needs remained. (*See* Dkt. No. 44).

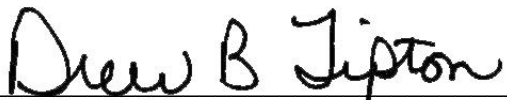
current posture of [the parties'] Motion[s][.]"² *EEOC v. Gulf Ship, LLC*, No. 1:08-CV-01519, 2010 WL 2104612, at *2 (S.D. Miss. May 20, 2010). In light of the Parties' additional time to conduct discovery, the Court will deny the pending summary judgment motions without prejudice. *See, e.g., Centurion Bulk Pte Ltd v. NuStar Energy Servs., Inc.*, No. 4:19-CV-00931, 2020 WL 8368320, at *2 (S.D. Tex. Sept. 25, 2020) ("In light of . . . the fact that discovery in this case is still ongoing, the Court determines [the defendant's] motion for partial summary judgment should denied without prejudice at this time."); *Cullison v. Hilti, Inc.*, No. 4:09-CV-04122, 2010 WL 3282613, at *2 (D.S.D. Aug. 19, 2010) ("Because the parties now have additional time to conduct discovery, Hilti's summary judgment motion is denied without prejudice."); *accord Garcia v. LQ Props., Inc.*, No. 3:16-CV-01646, 2018 WL 276329, at *3 (N.D. Tex. Jan. 3, 2018) ("Given the reopening of discovery, the court, exercising its discretion to control its docket, will deny without prejudice Defendant's pending motion for summary judgment.").

Accordingly, Plaintiffs' Motion for Summary Judgment, (Dkt. No. 31), Defendants' Motion for Summary Judgment, (Dkt. No. 32), and Lithia Motors, Inc.'s Motion for Summary Judgment, (Dkt. No. 34), are **DENIED WITHOUT PREJUDICE**.

It is SO ORDERED.

² The Defendants, in support of their own motion for summary judgment and in response to the Plaintiffs' motion for summary judgment, repeatedly assert that the Plaintiffs have offered "no evidence" in support of their claims. (*See generally* Dkt. Nos. 32, 34, 38). The renewed discovery period may well unearth additional evidence that changes the substance of both Parties' motions. The Defendants discussed a number of areas for which potential discovery needs still persist, including supplementation of initial disclosures, interrogatories, and various depositions. (*See* Dkt. No. 44 at 2-3).

Signed on July 31, 2023.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE